

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**
CHARLESTON DIVISION

DAKOTA STEVEN PROCTOR,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-07732

SOUTH CENTRAL REGIONAL JAIL, et al.,

Defendants.

ORDER

Before this Court are Plaintiff Dakota Steven Proctor's ("Plaintiff") Complaint, (ECF No. 2), and Application to Proceed Without Prepayment of Fees and Costs, (ECF No. 1). By Standing Order entered on January 4, 2016, and filed in this case on August 15, 2016, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 4.)

After being notified that Plaintiff was no longer incarcerated, Magistrate Judge Tinsley ordered Plaintiff to appear in person at a status conference set for November 8, 2018. (ECF No. 12.) Plaintiff failed to appear. (*See* ECF No. 15 at 2.) Magistrate Judge Tinsley thereafter ordered Plaintiff to show cause why this matter should not be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). (ECF No. 13.) Plaintiff did not respond by the deadline in that Order. Therefore, Magistrate Judge Tinsley entered a PF&R on November 27, 2018, recommending that this Court find that Plaintiff has failed to prosecute this civil action, dismiss the matter without prejudice, and deny as moot Plaintiff's application to proceed without prepayment of fees and costs. (ECF No. 15.)

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on December 14, 2018. (ECF No. 15.) To date, Plaintiff has failed to submit any objections in response to the PF&R, thus constituting a waiver of *de novo* review and Plaintiff's right to appeal this Court's order.

Accordingly, this Court **ADOPTS** the PF&R, (ECF No. 15), **DENIES** Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, (ECF No. 1), and **DISMISSES** this action without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). This Court further **DIRECTS** the Clerk to remove this matter from this Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 14, 2019



THOMAS E. JOHNSTON, CHIEF JUDGE